

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JOHN E. HARGROVE,

Plaintiff,

v.

Civil Action No. **3:19CV784**

MARK BOLSTER,

Defendant.

MEMORANDUM OPINION

By Memorandum Order entered on November 5, 2019, the Court conditionally docketed Plaintiff's action. At that time, the Court directed Plaintiff to submit a statement under oath or penalty of perjury that:

- (A) Identifies the nature of the action;
- (B) States his belief that he is entitled to relief;
- (C) Avers that he is unable to prepay fees or give security therefor; and,
- (D) Includes a statement of the assets he possesses.

See 28 U.S.C. § 1915(a)(1). The Court provided Plaintiff with an *in forma pauperis* affidavit form for this purpose.

Additionally, the Court directed Plaintiff to affirm his intention to pay the full filing fee by signing and returning a consent to the collection of fees form. The Court warned Plaintiff that a failure to comply with either of the above directives within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

On December 4, 2019, the Court received a letter from Plaintiff where he indicated that he was unclear what the November 5, 2019 Memorandum Order conditionally docketed. On December 13, 2019, the Court explained to Plaintiff in a Memorandum Order that the Complaint filed in this action pertained to the sale of batteries at the institution. The Court then ordered

Plaintiff to comply with the directions in the November 5, 2019 Memorandum Order within fourteen (14) days of the date of entry thereof. The Court explained that Plaintiff must complete and return all forms that were required by the November 5, 2019 Memorandum Order within that time. The Court also warned that a failure to comply strictly with this time requirement will result in summary dismissal of the action. *See* Fed. R. Civ. P. 41(b).

Plaintiff has not complied with the orders of this Court. Plaintiff failed to return a completed *in forma pauperis* affidavit form and a consent to collection of fees form. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing fee for the instant action. *See* 28 U.S.C. § 1914(a). Plaintiff's conduct demonstrates a willful failure to prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

/s/
M. Hannah Lauck
United States District Judge
M. Hannah Lauck
United States District Judge

Date: **JAN 23 2020**
Richmond, Virginia